The other:

'Refusal of access to statements would tend to create difficulties for honest witnesses but be likely to do little to hamper dishonest witnesses.'

With those views this court agrees. It is true that by the practice of the courts of this country a line is drawn at the moment when a witness enters the witness box and when giving evidence there in chief he cannot refresh his memory except by a document which, to quote the words of Phipson on Evidence, 'must have been written either at the time of the transaction or so shortly afterwards that the facts were fresh in his memory.' (Incidentally, that definition does provide a measure of elasticity and should not be taken to confine witnesses to an over-short period). It is moreover a practice which the courts can enforce; when a witness is in the box the court can see that he complies with that practice. The courts, however, must take care not to deprive themselves by new, artificial rules of practice of the best chances of learning the truth. The courts are under no compulsion unnecessarily to follow on a matter of practice the lure of the rules of logic in order to produce unreasonable results which would hinder the course of justice. Obviously it would be wrong if several witnesses were handed statements in circumstances which enabled one to compare with another what each had said. But there can be no general rule (which incidentally would be unenforceable, unlike the rule as to what can be done in the witness box) that witnesses may not before trial see the statements they made at some period reasonably close to the time of the event which is the subject of the trial. Indeed one can imagine many cases, particularly those of a complex nature, where such a rule would militate very greatly against the interests of justice."

We agree that there can be no general rule that witnesses may not before trial see the statements they made at some period reasonably close to the time of the event which is the subject of the trial. Indeed one can imagine many cases, particularly those where the material witnesses are persons such as police officers or narcotics officers whose daily duties consist of investigating activities of a criminal nature, where such a rule would militate very greatly against the interests of justice.

In England, in *R.* v. *Westwell*[2] the Court of Appeal, Criminal Division, has also held that the fact that the prosecution has failed to inform the defence that witnesses had seen their statements before giving evidence can be no bar to conviction. In our opinion the law is the same in Singapore.

In the present case, the defence knew, before the prosecution case concluded, that the witnesses had seen their statements. They cross-examined these witnesses who admitted the fact. They could have asked the court to consider discontinuing the trial on the ground of possible prejudice or risk of injustice to the appellant. This the defence did not do. The defence could also have made whatsoever points they wished to make with the court about the weight to be attached to the evidence of these prosecution witnesses. This they did not do. In any event, having regard to the lengthy cross-examination on this aspect of the case, we have no reason to doubt that the court, which consisted of two very experienced judges, in accepting the evidence of these witnesses as reliable and in acting on their evidence, had in mind the fact that they had refreshed their memory before giving their evidence. We reject this contention.

Another ground of appeal is that the trial judges were wrong in admitting in evidence and basing their conviction on the contents of the appellant's cautioned statement. After a trial within a trial, the trial judges found that the cautioned statement was a voluntary statement and rejected the appellant's allegations of assault. They also rejected a submission made that the cautioned statement should not be admitted because it was recorded through the interpretation of an interested person. Having regard to the reasons, which are set out in the grounds of decision, given by the trial judges for admitting in evidence the cautioned statement, we are not persuaded that they were wrong in so deciding. It is also apparent from the grounds of decision that the conviction of the appellant was not based entirely on the contents of the cautioned statement. The evidence of the material prosecution witnesses which the trial judges accepted as true clearly proved that it was the appellant who carried the parcel containing the drug, diamorphine, from No. 39 Lorong Paya Lebar to the provision shop and who placed the parcel on top of a show case in that shop.

Another contention before us is that the trial judges wrongly admitted in evidence and wrongly took into consideration the fact that the appellant was in possession of another three packets containing a brownish substance weighing 31.76 grams which on analysis was found to have a total diamorphine content of 11.84 grams. It is submitted, as it was before the trial court, that all evidence relating to the contents of these three packets was inadmissible as being prejudicial. We reject this submission and agree with the trial judges that the evidence relating to the contents of these three packets is admissible because it is relevant evidence.

Lastly, it is urged on behalf of the appellant that the conviction is against the weight of the evidence and the probability of the case. Having perused with care the verbatim record of the trial, we are satisfied that the trial judges were entitled and justified in accepting the evidence of the material prosecution witnesses and in rejecting the defence evidence and that on the evidence as a whole the trial judges arrived at a correct verdict.

For all these reasons the appeal is dismissed.

Appeal dismissed.

Solicitors: *David Marshall.*

LAI SENG FOOK v. TANG KONG LOW

[C.A. (Wee Chong Jin C.J., Chua and Kulasekaram JJ.) January 17, 1978]

[Singapore — Civil Appeal No. 10 of 1977]

Landlord and Tenant — Claim for possession — Whether appellant was respondent's tenant.

The respondent let the premises in 1954 to one Madam Tang who sublet the whole of it to several subtenants. The appellant, Madam Tang's son-in-law, paid the rent on her behalf and continued to do so after her death which was in 1967 or 1968. The rent receipt, however, was still in the name of the deceased. In May 1971, the respondent with the knowledge that Madam Tang had died, served a notice to quit addressed to "Madam Tang . . ." on the appellant determining the tenancy on June 30, 1971. Accompanying the notice to quit was a letter also addressed to Madam Tang

containing an offer of a new tenancy as from July 1, 1971 at an increased rent. The appellant who continued to pay the rent agreed to pay the increased rent from December 1974. The rent receipt was then issued in his name. In January 1975 the respondent served on the appellant a notice to quit addressed to the appellant determining the tenancy on February 28, 197. The learned District Judge found that the appellant by paying rent to the respondent after the expiration of the first notice to quit had accepted the offer of a new tenancy and he accordingly gave judgment for the respondent. The appellant's appeal to the High Court was dismissed and he appealed to the Court of Appeal. It was argued that the respondent could not create a new tenancy with the appellant as the original tenancy of Madam Tang was still subsisting and had not been effectively determined by the notice to quit.

Held: (1) the appellant in continuing to pay the rent to the respondent after the death of Madam Tang and to receive the rents from the subtenants could only lawfully do so as agent for the Chief Justice in whom the estate of the deceased was vested by operation of law. A notice to quit served on the agent is a notice to the principal;

(2) the learned District Judge was correct on the facts in finding that the appellant was the respondent's tenant when he paid rent to the respondent after the expiration of the first notice to quit.

Cases referred to:-

(1) *Harrowby* v. *Snelson* [1951] 1 All E.R. 140.

(2) *Egerton* v. *Butter* [1951] T.L.R. 58.

COURT OF APPEAL.

Tan Bar Tien for the appellant.

S. Vellupillai for respondent.

Wee Chong Jin C.J. (delivering the judgment of the Court): The respondent, Tang Kong Low, instituted proceedings in the District Court against the appellant, Lai Seng Fook, for possession of premises known as No. 29 Race Course Lane, arrears of rent and mesne profits. The premises were not subject to the Control of Rent Act and the only issue was whether the appellant was the respondent's tenant.

The facts as found by the District Judge were these. The respondent let the premises in 1954 to one Madam Tang Siew who did not personally occupy the premises but sublet the whole of it to several sub-tenants. Madam Tang Siew died in 1967 to 1968. One or two years before her death the appellant, her son-in-law, paid the rent on her behalf. Thereafter, the appellant continued to pay the rent to the respondent and to receive the rents from the sub-tenants. He requested the respondent to issue the rent receipt in his name but was told by the respondent that until he obtained letters of administration to the deceased's estate the rent receipts would continue to be made out in the name of the deceased. In May 1971 the respondent, with knowledge that Madam Tang Siew had died, through his solicitors served a notice to quit addressed "To Madam Tang Siew..." on the appellant determining the tenancy on June 30, 1971. Accompanying the notice to quit was a letter also addressed to Madam Tang Siew containing an offer of a new tenancy as from 1st July 1971 at an increased rent. Thereafter the appellant continued to pay rent to the respondent. In November 1974 the appellant agreed to pay an increased rent from December 1974 and in December 1974 he paid the respondent the agreed December rent and the rent receipt was issued in the appellant's name. In January 1975 the respondent served on the appellant a notice to quit addressed to the appellant determining the tenancy on February 28, 1975.

On these facts the District Judge found that the appellant by paying rent to the respondent after the expiration of the first notice to quit had accepted the offer of a new tenancy and accordingly gave judgment for the respondent. The appellant appealed unsuccessfully to the High Court.

It is submitted on his behalf that the respondent could not create a new tenancy with the appellant as the original tenancy of Madam Tan Siew was still subsisting and had not been effectively determined by the first notice to quit. It is submitted that the notice to quit should have been served on the Chief Justice in whom the interest of the deceased Madam Tang Siew was vested from her death until a grant of administration. We do not accept this submission. In our opinion, on the facts as found by the District Judge the appellant in continuing to pay the rent to the respondent after the death of Madam Tang Siew and to receive the rents from the sub-tenants could only lawfully do so as agent for the Chief Justice in whom the estate of the deceased was vested by operation of law. A notice to quit served on the agent is a notice to the principal (see *Harrowby* v. *Snelson*[1] and *Egerton* v. *Rutter*).[2] In our judgment the District Judge was correct on the facts of the present case to find that the appellant was the respondent's tenant when he paid rent to the respondent after the expiration of the first notice to quit.

The appeal is dismissed with costs.

Appeal dismissed.

Solicitors: *Boey, Ng & Wan; Donaldson & Burkinshaw.*

PUBLIC PROSECUTOR v. VISUVANATHAN

[O.Cr.J. (Choor Singh & Rajah JJ.) February 16, 1977]

[Singapore — Criminal Case No. 31 of 1976]

Penal Code, ss. 299 and 300 — Murder — Clause (c) of s. 300 — "Intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death" — Meaning of.

The accused was charged with having murdered one Madikum Puspanathan on January 23, 1976 at 7 p.m. The accused had earlier that day been drinking liquor with the deceased and some others in a bar at the junction of Jalan Besar and Upper Weld Road, Singapore. The accused became aggressive, pulled the deceased by the hand and challenged the deceased to a fight. They were separated. Soon after, the accused again seized the deceased's hand and pulled him out on to the road and there started a fight with the deceased in the course of which the accused pulled out a concealed knife, stabbed the deceased in the chest and ran away. The deceased collapsed on the road and died in a pool of blood.

At the autopsy, the pathologist found a fatal gaping stab wound below the left clavicle which was 8 cm. deep and had cut through the 3rd and 4th ribs, penetrated the left lung and produced a 2 cm. cut at the anterior surface of the heart. The cause of death was certified as "stab wound into the heart."

At the trial of the accused, the prosecution relied on clause (c) of section 300 of the Penal Code and contended that as the accused's act of stabbing was done with the intention of causing bodily injury and the bodily injury intended